

Mr Clelland (M. A.)  
Birks Reed

REPORT

OF THE

SPECIAL COMMITTEE

ON

*Medical Legislation*

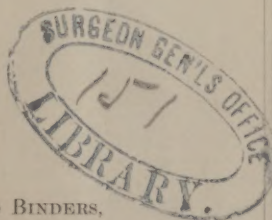
BEFORE THE

ILLINOIS STATE MEDICAL SOCIETY

AT ITS

Thirty-first Anniversary Meeting, held at Chicago, May,  
1881.

MILO A McCLELLAND, M D  
(CHAIRMAN COMMITTEE.)



CHICAGO:

JOHNSON, OLDS & CO., PRINTERS AND BINDERS,  
188 MONROE STREET.



*Knoxville, Ill., Nov. 18, 1881*

DEAR SIR:

The undersigned has been continued Chairman of Committee on Medical Legislation, to report at the meeting at Quincy Ills., in May, 1882. He will be under obligation to gentlemen into whose hands this Report may come, if they will forward him, in brief, any statutory enactments that have been made since the present Report was prepared. Due acknowledgement will be given.

Respectfully.

M. A. McCLELLAND.

Stonewall, Ill. Nov. 17. 1884

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# REPORT ON THE LEGAL REGULATION OF THE PRACTICE OF MEDICINE.

BY M. A. McCLELLAND, M. D., KNOXVILLE, ILL.

## SYLLABUS.

Earliest legal enactments in the United States.—Initial taken by the Legislature of New York.—Subsequent laws in force in that State.—Conflict between legitimate medicine and quackery.—Conflict an unequal one.—Restrictions of the Foreign Medical Press on the status of medicine in the United States.—Restrictions gratuitous.—Medical history of Great Britain from 1806 to 1826.—Scottish Universities trading in “bogus” diplomas.—English market for “bogus” American diplomas.—This variety of “American Consols” fall below par upon the enforcement of the “Compulsory Registration” Act in England.—Corporate privileges too easily obtained in United States.—Scottish Universities return to virtue in 1833.—Is the subject one falling within the legitimate domain of legislation?—Enforcement of the law should not fall upon Boards of Health, Medical Societies, nor private physicians, but upon the ordinary law officers.—Wyoming practice.—Canadian laws.—Conclusion recommendations.

SUPPLEMENTARY:—Brief statement of laws in force in the different States of the Union.

In the United States, the regulation of the practice of medicine, by legal enactment, began prior to 1806. The initial was taken by the legislature of New York. To practice either medicine or surgery without being duly licensed for the purpose was made a penal offense. Prior to this year, there was no statute forbidding the collection of fees for such unlawful practice. This the legislature, in above named year, provided for by enacting “that any person who should commence prac-

tice without a license, after the first day of September, next ensuing, should forever thereafter be disqualified from collecting any debt or debts incurred by such practice." (Lyman, *Popular Science Monthly*, April, 1881.)

The history of medical legislation from that time to the present has been the history of the conflict between legitimate medicine and quackery, in which quackery has often come out first best. The people demand that they shall have their medicine as they have their theology and politics,—of whatever quality or quantity they choose; hence, laws made for the regulation of the practice, have generally been inoperative through the mutual efforts of the laity and empirics to thwart them. Good results, however, have and will continue to follow these attempts to bring the practice of medicine under legal control. The opportunity is offered the profession to discuss questions pertaining to the practice, and in the end, an enlightened public opinion will do much to advance the cause of science and to suppress charlatanry in its various forms.

The statutes of New York were revised in 1813 and in 1830, in which year "the unauthorized practice of medicine was declared a misdemeanor, to be punished by fine and imprisonment or both." The criminal feature of the statute was rendered inoperative early the same year, by an act that made the offense merely penal, and the wisdom of the ordinary legislator was further shown by an additional provision exempting from the penalty of the statute those who applied "for the benefit of any sick person any root, bark or herb, the growth or produce of the United States; however, these practitioners were still debarred from collecting fees for *services rendered*. It was, however, easy and more pleasant to collect the fee in advance, and this they did. (Lyman.) The legal physician waited for his fee till the end of the year, and then frequently did not get it. We in Illinois, are living through this same experience, despite the regulation of practice by statutory enact-



ments, but not to the same extent as formerly without this regulation. The number of charlatans and empirics has been reduced—not entirely suppressed.

Here will be a proper place to speak of the restrictions made by the foreign medical press in regard to the status of medicine in the United States, which restrictions are for the most part gratuitous.

The medical history of Great Britain from 1806 to 1826, is more shameful than anything that has recently occurred in our own country. During this time the venerable Universities of Edinburg, St. Andrews and Aberdeen, through certain of the professors in these schools, were trading in medical degrees by the wholesale. The like of this has never occurred in any of the reputable American medical schools. In fact, the nefarious practice has been, I think, without exception, the grand prerogative of the so-styled eclectic schools. This is one of their radical reforms, and if the Grand High Priest of the order is to be believed, conservative Europe took forty of the sixty thousand bogus diplomas his several universities conferred the past few years at the small cost of ten to two hundred dollars, according to the means or gullibility of the “honorab!e and honest applicants” for the same. This trade in England rapidly fell away as soon as *compulsory registration* went into effect in that country.

Under our political system corporate privileges are readily obtained from pliant legislators. This makes it quite easy for broken down hacks in medicine and theology to obtain authority to grant degrees, without offering the least proof of their competency to teach any of the branches in science or medicine. This was notably the case in Pennsylvania. One of the “professors” who presumed to put his name upon diplomas, certifying to the fitness of the possessor to practice medicine, was a Methodist preacher. The dean, president and secretary of one of these concerns were of this theological complexion.

One of them was *expelled* by his local conference for his disreputable connection with the issuing of bogus degrees. He was, however, very shortly afterward reinstated by the judicial council or higher court of that Church for reasons that do not clearly appear, possibly on account of persecution of the saints. Another of the crowd was a Congregational minister. He, too, was expelled from his ministerial association, and it does not yet appear that he was ever reinstated. It is to be hoped, for the sake of common decency, he has not been. No disrespect is intended towards any religious denomination in the above remarks, but it is hoped that, in calling attention to such abuses, the influence of all good men of whatever theological bias may be brought to bear upon the side of justice and of right.

“ In 1833 the University of St. Andrews, through some of its governors, improved its course of study and there was *appointed for it a competent board of examiners*, which satisfied the public that none but well qualified persons could obtain a degree at that university. No sooner was this system established than the University of Edinburg commenced a war of agitation by which she intended to shake the very walls of Windsor Castle, if His Majesty would not put an extinguisher upon St. Andrews’ examiners. Memorials were drawn up; petitions were presented; the highest law authorities were retained; other universities and colleges were enlisted in the unholy cause; by an intrigue the College of Surgeons of Edinburg was induced to join hands in the crusade and petition the king in council *to do an illegal act*. Justice at last triumphed. In the end all the universities were obliged to raise their qualifications and for each, *competent examiners* were appointed,” since which time the universities have again taken their proper rank—the equals of other first-class medical schools of the world. (MacIntosh, *Principles of Pathology and Practice of Physic*, Preface, Vol. 1, Second American Edition, 1837.)

To return to the history of medical legislation in New York. In 1834, only such as used the native products of the United States "*gratuitously*" were exempt from the penalty, but in 1835 were again permitted to collect fees for services rendered. So matters stood till 1844, when all laws and enactments, prohibiting the practice of medicine and the collection of fees, were repealed. "One doctor was as good as another in the eye of the law," (Lyman), and so it remained till 1874. Gentlemen familiar with Fourth Avenue, New York, in 1866-7, will remember one of the prominent signs on that busy street: "Dr. ———, Indianopathist." In the west we have advanced to the stage of Indian doctors, but have not yet raised the term to the dignity of a "pathy."

In 1874, the practice of medicine or surgery, without a diploma, or license from some chartered school, State Board of Medical Examiners, or Medical Society, or the practice thereof "under cover of a medical diploma illegally obtained," was again made a misdemeanor, punished by a fine of from fifty to two hundred dollars, and for a subsequent offense, of from one to five hundred dollars, or of imprisonment of not less than thirty days, or both. This act was supplemented in 1880 by another, which provided that practitioners of medicine must be twenty-one years of age, must have a license from the regents of the State University, or a diploma from an incorporated medical college within the State, or a diploma of a similar institution without the State, provided it be endorsed as approved by some proper medical faculty of the State. A system of registration, similar to that in our own State, is also provided, the registration being done under oath. Violation of the provisions of the act is declared to be a misdemeanor and punished, on conviction, as provided for by the statutes of 1874. Registration by perjury is made indictable, and on conviction, punished as usual. (Lyman, *Popular Science Monthly*, April, 1881.)



The objectional feature in the New York statutes, as in those of Illinois, is the exemption of ten-year practitioners from the operation of the law. The New York statutes, however, are better than those of Illinois. "They provide that all physicians must be registered; that those not already licensed, who have practiced for ten years, may continue to do so during the next two years, if they attend some medical school legally incorporated in New York. After the expiration of this period, they may practice, only in case they have received a diploma." (Cushing, *International Review*, April, 1881.)

The success of registration in Illinois and New York will do much to encourage the enactment of similar laws in other states. Iowa, Massachusetts and Maryland have thus far failed to get their proposed bills regulating the practice of medicine passed, but the success of such laws in other states will have a salutary effect, and it is to be hoped and expected that some near session of their legislatures will be influenced to enact similar or better laws for the protection of the people from the ignorance that has set itself up in high places.

The question arises here, is the preservation of the public health a subject falling within the legitimate domain of legislation? If precedent is a mighty weight in law, then we have some very ancient precedents. The Egyptians employed physicians at the public expense, whose duty it was to cure the sick without charge. Greece, in some parts, had publicly paid physicians. In the Roman Empire, town authorities appointed town physicians, who received a salary from the public treasury, and enjoyed immunity from public burthens. Almost every civilized state has its sanitary laws and its sanitary police. Out of consideration for the public health, laws are passed prohibiting the sale of poisonous drugs unless labeled. The interment of the dead within the limits of a dense population is forbidden. The intermarriage of persons within certain degrees of relationship is prohibited, because the chil-

children of such marriages are likely to be idiotic, dwarfs, or scrofulous. Laws are passed for the prevention and spread of endemic and epidemic diseases. Offensive trades are forbidden in populous districts. The property of citizens is taken possession of, purified and even destroyed by the State when the public health demands it. In one case a regulation forbidding the growing of rice within a city was sustained, on the ground of its injurious effect upon health.\* "The life of a citizen is not regarded as belonging to himself, but to the State." (*Princeton Review*, January, 1881.)

It being conceded that the life of the individual belongs to the State, why should the health of the individual be of less concern?

The law being upon the statutes, how shall it be enforced? The State Board of Health, with the small amount of money placed under its control, is obviously unable to keep oversight of all the retired localities in a given state. Nor can county societies be expected to prosecute offences of this sort, far less can a private physician take upon himself this function. Proper co-operation on the part of state attorneys and other law officers can but rarely be obtained, and should the case finally get a hearing before the grand jury, the average jurymen will regard it as merely one of persecution, and happy will be the complaining physician, if he does not have it suggested to him that he is probably actuated by personal jealousy, or that pecuniary motives are the acting powers behind the complaint. The people generally look upon such legislation as being only in favor of the medical profession, especially the regular profession, which, much to its credit let it be said, has been always first to urge these measures, guarding the public against the ignorance which so generally prevails. The medical profession, which has secured the enactment of the law, has in most cases been left to secure its enforcement,

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\* *Green vs. Savannah*, 6 Geo. 1.



or to let it become a dead letter upon the statutes. The statute of Wyoming makes it the duty of the police, constables and sheriff to arrest all persons violating the law made and provided. This is a proper and wise provision. The law in this territory provides that practitioners must be graduates of chartered medical schools, proof of which under oath, with copy of diploma, to be recorded by register of deeds, in the county or counties in which the holder proposes to practice. The person presenting such proof must further affirm that he or she is the identical person named in the diploma. The penalty is fine and imprisonment. With power to reject diplomas from the bogus concerns that sell them, the laws in Wyoming are the best thus far enacted.

It has been well said that "ignorant people require to be protected against themselves, against the consequences of their own ignorance, their own follies and their own superstitions. They require to be protected against the wiles of those artful quacks and brazen-faced pretenders who disguise the most profound ignorance behind the most pretentious assumption of wisdom, of learning, and of professional standing."

We have game laws, fish laws, nuisance laws, etc., in which it is made the duty of sheriffs, deputy sheriffs, constables and police officers, to *inform against* and *prosecute all persons* whom there is probable cause to believe have or are violating these acts. Why should not the enforcement of the medical law also fall upon the legal representatives of the people. County societies should not be required, in their corporate capacities, to prosecute these offenses, unless they receive a portion of the inflicted fine, and here, as with the private physician, the sympathies of those whose duty it would be conduct the legal processes would be enlisted on the side of the defendant, and all the machinery of delay and escape from merited punishment would be freely extended, so that in the end that amount accruing to the society from the inflicted fine, would

not pay for the vexatious labor and the employment of the additional legal counsel required to assist in the prosecution.

The Canadian laws bearing upon the practice of medicine vary in the different provinces. They agree, however, in a number of essential points. A four years' course of study is required by each. Diplomas must be examined and registered. Register must be published annually, and all persons not entitled to registration are absolutely prohibited from practicing. The penalty is either fine or imprisonment. The usefulness of medical laws without this provision is to a great extent nugatory. With such a provision charlatans migrate to more congenial climes. The intelligent public in Canada stand with the profession in exacting the execution of the law. The absolutely ignorant, of which the body politic in the United States is so largely made, in spite of our boasted free schools, will stand by the charlatan in opposing all laws of this character; but the intelligent, of which the number will become larger and larger, as the question becomes more and more publicly discussed, will stand by the profession, and in the end, from small beginnings scientific medicine will take its proper place among the professions, the equal of law and theology, in the estimation of the public.

In conclusion, your committee would suggest that, as fast as public opinion will warrant it, the legislature be requested to enact laws: (1) Preventing the practice of medicine upon diplomas obtained for a money consideration; (2) Providing some compensation for the return of vital statistics to the several county courts; (3) Making it the duty of grand juries to inquire into violations of the medical law as in other criminal cases; (4) Prosecution of the same by the law officers, as in other cases; (5) Exempting physicians or surgeons duly authorized to practice from disclosing any information he has acquired in attending his patients professionally and necessary to enable him to prescribe in the case; (6) Requiring all per-

sions bringing suits for malpractice to give security for costs in cases where they shall fail to make out a clear case; (7) For the compensation of physicians testifying as experts in medico-legal cases; (8) Amending Chapter 91 of the Revised Statutes of 1874, so that the act will be in force in other counties of the State, as it now is in Cook County. The act referred to is the one to promote the science of medicine and surgery in the State of Illinois. The same material is as abundant in the other counties of the State, the needs of the profession are quite as urgent, the good accruing to the public will be quite as great.

The assumption of professional titles is greatly abused, and highly calculated to deceive the ignorant. It is a great wrong against those whose time has been legitimately spent in obtaining the same, and there ought to be some legal restraint in the use of them by unqualified and incompetent parties.

Another great injustice is perpetrated against physicians in Section 70, Ch. 3, Rev. Stat. 1874, in respect to the claims of physicians against the estates of decedents, viz: the most costly funeral expenses must be the *first* paid, the physician being left to get his just dues, for last sickness, *ninth* on the list, and for other professional demands, the seventh; the estate in many instances, not reaching farther than the second requirement—"the widow's award." Certainly the labor, time and money so often exacted of the physician is quite as valuable and as honestly due as that for costly "funeral feasts."

## SUPPLEMENTARY.

### ALABAMA.

No person, except those professing to practice some irregular system, shall be permitted to practice medicine without having obtained a certificate of qualification from some authorized board of medical examiners.

- Irregular practitioners must obtain a diploma or certificate of qualification in anatomy, physiology, chemistry, and the mechanism of labor, from some authorized board of medical examiners.

Board of censors of State Medical Society and censors of county societies affiliating with State Society, constitute a legal board of examiners.

Standard of qualification to be established by State Medical Society.

Diplomas and certificates of qualifications to be officially endorsed by probate judge. Same to be registered. Fee, one dollar. No fee to examining boards.

Penalty, fine of not more than one hundred dollars for each offense, and if not paid, imprisonment not more than one year.

Practitioners now legally practicing, entitled to a certificate without examination.

Act to take effect as soon as county society has organized and reported to county court.

State Medical Society to constitute Board of Health. Shall be medical advisers of State. Shall report to Governor.

County societies in affiliation with State Society to constitute county boards of health. Shall be under general directions of State Board.

County boards shall have only advisory powers, and shall be conducted without cost to the State, except the legal authorities of counties, towns and cities, may invest local boards with executive powers and duties for the promotion of the public health, and under such rules and stipulations as may be agreed upon between the parties.

Sanitary regulations reserved to county boards; salaries, etc., to county, city or town. (*Session Laws of Alabama, 1876-1877.*)

#### ARKANSAS.

Physicians must be registered in the office of clerk of county court of some county.

Must file with above officer "a certificate of qualification, signed by a majority of the County Board of Medical Examiners." Must be twenty-one years of age, and if no county board, then register in adjoining county or with State Board.

County Board of Examiners to be appointed by the county judge, from citizens, learned in medicine, good moral character, and duly registered; Board to be renewed every four years. Vacancies to be filled by county judge. Examiners to file oath as provided for by constitution. County Board to consist of three members. To hold meetings quarterly for examinations. Examination being satisfactory, county clerk shall issue certificate valid throughout the State. Fee for certificate, one dollar and a half.

Two of said County Board shall constitute a quorum. Candidate shall pay for examination the sum of six dollars, to be equally divided between said three members of County Board. This to be their only compensation.

Practitioners of five years' continuous practice within State, exempt from examination, but must present proof to county clerk, be registered and pay fee for same.

Females, now or hereafter engaged in the exclusive practice of midwifery, exempt.

All persons who furnish or administer medicines, or in any manner treat diseases or wounds for pay, "shall be deemed physicians."

State Board to consist of five members, qualifications and requirements same as county boards, to be appointed by Governor. To constitute a court of appeal from county boards. To receive from applicants the sum of five dollars for examination. Applicants not to be refused certificates "on account of any particular system or school of medicine" that they may desire to practice.

Violation of statute declared a misdemeanor, punishable by fine of "not less than ten nor more than one hundred dollars,



and each day said physician shall practice medicine without being registered, as hereinbefore required, shall be deemed a separate offense." Act to go into force July, 1881. (*Original engrossed bill*.)

#### CALIFORNIA.

Has a State Board of Examiners which reported, at its meeting in August and September, the licensing of ten medical men under the law; also, eight arrests for practicing without a license. Three fines of \$50 each had been collected. (*Medical Record*, vol. xviii, p. 583.)

#### NORTH CAROLINA.

No law except the right of the Medical Society of the State to examine applicants for license to practice. (*Secretary of State*, April, 1881.)

A rigid Pharmacy law was passed and approved, March 12, 1881, and goes into effect the first of June. (*Druggist's Circular and Gazette*, May, 1881.)

#### SOUTH CAROLINA.

Unlawful for any person who has not attended a full course of instruction and graduated from some school of medicine, situated either in the United States or some foreign country, or who cannot produce a certificate of qualification from some state medical society, or who is not a person of good moral character, to practice or prescribe medicine for reward or compensation for any sick person in this State. Ten-year practitioners exempt. Fees not to be collected by unlawful practitioners. Dentists and female practitioners of midwifery exempt. Fine, \$50 to \$100 for first offence, in addition to which for second offence, imprisonment for ninety days in county jail.

Compensation, \$10 to \$50 allowed physicians in medico-legal cases.

Counties authorized to appoint physicians to visit the indi-

gent sick. Half price only shall be charged for such services. (*Revised Statutes*, 1873, p. 227, ch. 32.)

#### CONNECTICUT.

Physicians to register, with town clerk, certificates of births and deaths. To receive therefor twenty-five cents for each certificate. At the request of Boards of Health to report daily or weekly cases of pestilential or malignant fever or disease. Failure to report, a fine of fifty dollars. (*Revised Laws of* 1866.)

SECTION 1. Any itinerants, not an inhabitant of this state, who shall, by circular, handbill, or any other mode of advertisement, profess to treat and shall in any town in this state, treat disease or injury by any drug, nostrum, manipulation, or other expedient, shall be fined twenty five dollars for each day that he shall exercise his profession without procuring a license therefor.

SEC. 2. Selectmen in towns, and the chief officer of police, in cities, may issue such licenses upon payment to the town or city treasurer by such itinerant person of the sum of twenty dollars, for each day for which his license may be granted. The license shall distinctly state the number of days for which it shall be in force, and may be renewed at its expiration for any further time upon the same terms. Such selectmen and chief officer of police shall record such licenses in books kept by them for that purpose, which shall be open to public inspection.

SEC. 3. This act shall not apply to commissioned surgeons in the army or navy of the United States, to any person rendering gratuitous services in cases of emergency, nor to any physician or surgeon coming into this state from another state, to consult in any particular case.

SEC. 4. Prosecutions for violations of this act may be heard and determined by police courts, where established, and by justices of the peace in towns in which such courts have no criminal jurisdiction.

Approved April 12, 1881.

#### DELAWARE.

The President and Fellows of the State Medical Society, a body corporate to license practitioners, upon diplomas or upon a full and impartial examination, to receive for said license ten dollars. Three members of examining board may grant certificate, good until next regular meeting.

Without certificate cannot collect fees, except he was a practitioner in the State prior to Feb. 4, 1822, or resides in and is

regularly admitted to practice medicine and surgery in some other state. Fine not less than fifty nor more than one thousand dollars. Thompsonian, Botanic, Homœopathic, or those who practice gratuitously or who merely accept any gratuity or reward voluntarily given for their services, are not liable nor guilty of a misdemeanor. (*Rev. Code.*)

#### GEORGIA.

The board of physicians of the regular school are authorized to: 1st, Grant licenses; 2d, To prescribe a course of reading to those who study medicine under private instruction, which shall be obligatory upon all who may apply to the board for examination.

Must grant licenses to all physicians of their school, who present diplomas from the incorporated medical colleges of the State, without examination. To grant licenses to others who pass a satisfactory examination. May revoke such licenses whenever satisfactory evidence is produced to said Board, *of irregular and unprofessional practices, calculated to discredit the medical profession, or result in injury to the people.*

To grant licenses to practice any particular branch of medicine, or to treat any particular form of disease, if the applicant, upon examination, shows himself competent.

Druggists and apothecaries to obtain license from said Board.

One member of board may grant license till next regular meeting. Four members to constitute a quorum.

Reform (?) practitioners to have like powers. Neither board to license to practice in a school different from their own. Those belonging to neither school must have a diploma, or are liable as though they had no license. Punishment, indictment, fine and imprisonment.

Physicians in practice prior to December 24, 1847, or were

in practice under a legal diploma or license, January 1, 1863, are exempt. So, also, druggists engaged in said business prior to December 24, 1847, and continue so at the adoption of this code, and merchants dealing in medicines already prepared, if patented, or, if not patented, legally warranted by a licensed druggist.

#### NEW HAMPSHIRE.

Physicians not to practice without a license from a medical society, which may grant and revoke licenses. Fee, \$5 for use of Medical Society.

Penalty for practicing without license, \$300. (*Secretary State*, April 27, 1881.)

#### ILLINOIS.

Establishes a Board of Health for the State, composed of seven members, appointed by the Governor.

Shall have the general supervision of the interests of the health and life of the citizens of the State. Sanitary investigation, supervision of registration of vital statistics. Shall make annual reports to the Governor regarding vital statistics, diseases, etc.; five thousand dollars being appropriated to defray all expenses, salary of secretary of Board, contingent expenses, printing, etc.

Practitioners, if graduates, shall present diploma to Board of Health for verification as to genuineness. If so found, a certificate to issue under seal of Board. Fee, if candidate is successful, five dollars.

For presenting a fraudulent diploma, Board to collect a fee of twenty dollars.

Diplomas verified by affidavit of holder. Examinations to be of an elementary character. Board may revoke certificates for unprofessional or dishonorable conduct.

Persons professing to practice medicine or who shall append to his name the letters M. D., to be considered physicians.

Students prescribing under supervision of preceptors, or persons prescribing gratuitously in cases of emergency, exempt. Not applicable to commissioned officers of the United States army or navy.

Itinerant practitioners to pay a license of one hundred dollars a month.

Practitioners to be registered in county or counties where practicing. When removing to another county, certificate to be indorsed to that effect by county clerk; said certificate to be recorded as before provided for.

Practitioners to file certificate of births and deaths within thirty days. Penalty, ten dollars. Failure to register, fine, not less than fifty nor more than five hundred dollars, or by imprisonment of not less than thirty nor more than three hundred and sixty-five days, or by both fine and imprisonment, for each and every offense; and any person filing or attempting to file, as his own the diploma or certificate of another, or a forged affidavit of identification, shall be guilty of a felony, and upon conviction shall be subject to such fine and imprisonment as are made and provided for by the statutes of this state for the crime of forgery.

Board a mixed one, three regular physicians, one homœopath or eclectic, and two laymen. (*Report State Board of Health.*)

#### INDIANA.

“Physicians are not competent witnesses as to confidential communications made to them in the course of the duties of their profession, unless by the consent of the party who made the communication.” (*Statutes, Gavin & Hord, 1862.*)

#### KENTUCKY.

Physicians and surgeons to keep a registry of births and deaths. Certificate to be filed with county clerk.

Coroners authorized to appoint competent physicians to make post-mortem examinations.



Failure to register births or deaths, a fine of from \$10 to \$20. (*Rev. Statutes*, 1860.)

#### LOUISIANA.

Before being permitted to practice must make affidavit, before a duly qualified justice of the peace, of having received the degree of Doctor of Medicine, from a regularly incorporated medical institution in America or Europe.

The justice is to issue a certificate and forward a copy of the same to the parish recorder, who shall record the same. Fee to each officer, one dollar.

Ten-year practitioners and female practitioners of midwifery are exempt.

Coroner or majority of jury may summon one or more competent physicians to make post-mortem examinations, expenses of which to be borne by parish or municipality.

Physicians required to pay an annual license tax of \$20, (with what just reason does not appear).

The false assumption of holding a professorship in any medical college, or assuming falsely any literary or professional title, forever bars from the right to practice medicine, and on conviction of said assumption, punishment by imprisonment in the State penitentiary for not less than six months nor more than five years. (*Acts of 1872*.)

Fines and license fees collected summarily, without judicial formality. Injunction to forbid practice, with twenty per cent. special damages. (*Acts of 1873*.)

#### IOWA.

Has three statutes relating to medical affairs. One establishes a State Board of Health. The other two regulate the practice of Pharmacy and the sale of medicines and poisons.

The State Board of Health consists of nine members, seven being physicians. Its duty is to look after the sanitary condition of the State, make appropriate scientific investigations,

and secure the registration of vital statistics. Such registration is made compulsory upon physicians; the fine for neglect to register a death or birth being ten dollars. No compensation is allowed for the same. The injustice of this is manifest. Physicians should not be called upon to exercise their special knowledge for the good of the public, without some return in the way of a fee. Possibly, when legislators learn the value of vital statistics, this will be forthcoming, without any asking on our part; but physicians have, for so long, given their services gratuitously to every good word and work, the public will scarcely recognize our right, unless we, upon every proper occasion, assert it.

An attempt was made by a physio-medicalist to introduce a bill into the Iowa legislature recently, similar to that of Kansas. When it is considered that no regular physicians have been engaged in the bogus diploma business, but that it was run almost entirely by the Eclectic School, of which physio-medicalism is an off-shoot, the animus of the attempt is readily seen.

## NEW JERSEY.

### CHAPTER CXCIX.

#### **An Act to regulate the practice of medicine and surgery.**

1. \* \* \* Every person practicing medicine or surgery in this State in any of their branches for gain, or who shall receive or accept for his or her services any fee or reward, either directly or indirectly, shall be a graduate of some legally chartered medical college in good standing, or some medical society having power by law to grant diplomas; and such person, before entering upon said practice, shall deposit a copy of his or her diploma with the clerk of the county in which he or she may sojourn or reside, and shall pay said clerk ten cents for filing the same in his office; said copy to be a matter of record, and open to public inspection.

2. \* \* \* Any person who shall practice medicine or surgery, without conforming to the requirements of the first section of this Act, shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by a fine of twenty five dollars for each prescription made or operation performed, said fine to be sued for and recovered in an action of debt, by any person who will sue for the same, and in default of payment of said fine,

the offender shall be imprisoned in the county jail for a period of not less than three nor more than six months; provided always, that he or she may be liberated at any time by paying the amount of said fine and costs.

3. \* \* \* It shall be unlawful for any person not qualified according to the first section of this Act, to collect any fees for medical or surgical services.

4. \* \* \* Any person who shall offer for record a copy of any diploma which shall have been issued to any other person, or a diploma issued or obtained fraudulently, shall be deemed guilty of a high misdemeanor, and on conviction thereof, shall be punished by a fine of not less than three hundred dollars, nor more than five hundred dollars, or imprisonment at hard labor for not less than one nor more than three years, or both, at the discretion of the court.

5. \* \* \* Nothing in this Act shall be so construed as to prevent any physician or surgeon in good standing, and legally qualified, to practice medicine or surgery in the State in which he or she resides, from practicing in this State, but all persons opening any office, or appointing any place where he or she may meet patients, or receive calls, shall be deemed a sojourner in this State, and shall conform to the first section of this act.

6. \* \* \* This Act shall take effect on the first day of June, one thousand eight hundred and eighty.

Approved March 12, 1880.

#### CHAPTER XLIX.

Supplement to an Act \* \* \* approved March twelfth, one thousand eight hundred and eighty.

1. \* \* \* That section two of an Act entitled "An Act to regulate, etc." \* \* \* is hereby amended so that the same shall read and be:

2. \* \* \* That any person who shall practice medicine or surgery without conforming to the requirements of the first section of this Act, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by a fine of twenty-five dollars, or imprisonment in the county jail not exceeding six months, or both, at the discretion of the court, for each prescription made, performed, or professional service rendered, provided that any person who shall have had twenty years experience in the practice of medicine or surgery in one locality shall be exempt from the provisions of this Act.

Approved March 2, 1881. (*Hon. Secretary of State, April, 1881.*)

#### KANSAS.

The salient features of the law in this State relate to the different schools examining and certifying to the fitness of applicants to practice. Certain parties, who failed to pass before examiners appointed by the regular Medical State

Society, subsequently applied to the Eclectic authorities, and were promptly admitted, the fee being, for such examination, twenty dollars. Since April 1, 1880, the Boards have no right to admit practitioners except upon a diploma. The "Reform" school, finally under the learned directions of the State's Attorney General, assumed to be *the* Examining Board "for the entire State, for whereas, etc., the Kansas Medical Society (Regular) "had no legal existence," it having been chartered while the State was a territory, and therefore, under the *State* laws, was incompetent to grant permits to practice. Therefore, Roots and Herbs assumed that prerogative, promising legal immunity "on the receipt of a proper fee." A "deficiency in the consideration" seemed in some cases the only "cause for a rejection of a candidate." The salutary effects of the law thus far has been *nil*. The granting of "permits to practice," on examination by Boards of different schools is pernicious in the extreme, as exemplified by such a course in Kansas. (*Med. Record*, vol. xviii., p. 530.)

#### MASSACHUSETTS.

Practice of medicine not regulated by statute. A bill for this purpose was introduced last year, but failed to pass. The same subject was presented at session of 1880-1, without result as to legislation. A bill is now before the House to prevent incompetent persons from conducting the business of apothecaries. (*Gov. Secretary of State*, April, 1881.)

#### MAINE.

No person, except a physician or surgeon, who began to practice prior to February 16, 1831, or has received a medical degree at a public medical institution in the United States, or a license from the censors of the Maine Medical Society, shall recover any compensation for medical or surgical services, unless, previously to rendering such services, he has obtained a certificate of good moral character from the municipal of-

ficers of the town where he then resided. (P. 202, ch. 13, sec. 1.)

#### MARYLAND.

No statutes regulating the practice of medicine; common law and the usage of the profession, constitute the law. (*Cor. Secretary of State*, April, 1881.)

#### MICHIGAN.

Numerous bills have been introduced at different sessions of the Legislature, none of which were successful. Some two or three years ago a bill was before the Legislature providing for three separate State boards of co-ordinate jurisdiction, representing the Regulars, Homoeopath and Eclectic. The bill failed and it is well it did, considering the bad working of such a law in Kansas. The State has no medical law except that physicians are forbidden to prescribe when intoxicated. (*Cor. Secretary of State*, April, 1881.)

#### MINNESOTA.

No law. The "Illinois law was proposed at last Legislature but not receiving much support was dropped." (*Cor. Secretary, State Board of Health*.)

#### MISSISSIPPI.

No law in this State regulating the practice of medicine except, malpractice is indictable as a criminal offence. It seems, however, the State has a Board of Health which proposes recommending "Legal regulations" to the next Legislature. (*Cor. Secretary of State*, April, 1881.)

#### MISSOURI.

Unlawful to practice without a diploma from a medical college or university, duly established by law.

Violation a misdemeanor. Punishment, a fine of not less than one hundred nor more than five hundred dollars; not applicable to persons now authorized to practice.



Diploma to be filed with county clerk, who is to grant certificate; fee, one dollar. Relates only to those not already legal practitioners. Registration under oath.

False record a misdemeanor. Penalty, fine of from one to five hundred dollars.

Failure to comply a misdemeanor. Penalty same as above, and can collect no fee.

Midwives and medical students, practicing under immediate instructions of preceptor, exempt.

Certified copy of diploma to be received in evidence.

Duty of circuit and prosecuting attorneys to prosecute. Judges of all criminal courts "shall give this chapter in charge to the grand juries within their respective judicial districts." Fines accrue to school fund.

Druggists not permitted to enroll as physicians or practice without conforming to above. A stringent pharmaceutical law goes into effect June 26, 1881. (*Hon. Secretary of State*, April, 1881.)

#### OHIO.

The statutes of Ohio regulating the practice of medicine provide that "No person shall be permitted to practice who has not attended two full courses of instruction, of at least twelve weeks each, and graduated at a school of medicine, either in the United States or a foreign country, or who cannot produce a certificate of qualification from a state or county medical society, and is not a person of good moral character. Exceptions are made to those who, at the time of the passage of the law, had been continuously in practice for ten years. There are features relating to subjects for dissections, penalties for robbing, etc., etc." Statutes of Ohio, 1880. (*Hon. Secretary of State*, April, 1881.)

#### PENNSYLVANIA.

Possession of diploma, regularly issued, to constitute sufficient license to practice.

Not sufficient, if granted for money consideration.

A practitioner without diploma may apply to prothonotary for examination. Court to appoint a committee consisting of three respectable practitioners of the school of practice, recognized by the Commonwealth, to which applicant may profess to belong. Applicant to deposit fifteen dollars with committee, to be equally divided among them for said examination, and must make oath "that they have not taken, and will not receive, directly or indirectly, any other compensation" for such examination.

One full course of lectures and five years' practice, also, ten years' continuous practice, exempts.

Transient practitioners to furnish proof as above, taking out a license for one year, for which he is to pay into county treasury the sum of two hundred dollars.

Violation a misdemeanor; punished by a fine of not exceeding five hundred dollars. Shall receive no fee, and if one is paid, patient or heirs may recover as a debt. Approved April 12, 1875.

Further legislation is in progress. Bill gone to its third reading. April, 1881. (*Hon. Secretary of State*, April, 1881).

#### RHODE ISLAND.

Physicians must give certificate of death to family of deceased, or with those having charge.

Must make annual returns before the first Monday in March, of number of births and deaths that have occurred in their practice. Penalty, forty dollars.

Must take no gratuity for certificate of inability to perform military duty. Penalty, fifty dollars. (*General Laws*, 1872.)

#### TEXAS.

Permits anyone to practice "who holds and has recorded a diploma from any *chartered* medical college. Those so unfor-

tunate as to possess no *such rights* are required to be examined by a Medical Examining Board." The law of 1876 required an examination and certificate from the District Examining Board, irrespective of diplomas. This was repealed, and "a diploma required." The fellow, Paine, who engineered the "Philadelphia University of Medicine and Surgery" in its nefarious career, was, for a time, located in Austin. Under the commendable attention of the regular profession of that city, he found it pleasant to migrate to a more congenial clime. The law now in force bears the Eclectic ear-marks.

Attempts will be made in the near future to enact a law similar to, or better than, the one of 1886.

W. J. Burk, M. D., of Austin, President of the Medical Examining Board, for the Austin district, thinks that a single State Examining Board, from which every one intending to practice should be obliged to obtain a certificate of qualification, the better form of regulating the practice. This to be enforced by a heavy penalty. (*W. J. Burk, Pres. Med. Ex. Board, Austin, Tex.*)

#### TENNESSEE.

No law regulating the practice of medicine. (*Hon. Secretary of State, April, 1881.*)

#### VERMONT.

Each chartered medical society to elect a board of censors, consisting of three members, to examine and license practitioners.

Every person assuming the title of doctor to obtain a certificate of some medical society, either county or district.

Such certificate to be recorded by county clerk. Fee, twenty-five cents. Certificate to be recorded in county in which practitioner resides. If not a resident of the State, then in county from which certificate issues. Failure to record within thirty days, fine of twenty-five dollars. Signing

certificate of death, penalty same as for practicing without a certificate.

Censors to notify practitioners of the requirements of the law, to obtain certificate within thirty or ninety days.

Non-residents must comply with the law the same as citizens of the State.

Censors to issue certificates without fee; said certificates being valid throughout the State after being duly registered.

Censors to revoke certificates if obtained fraudulently, or forfeited by reason of crime or misdemeanor.

Penalty for first offence, a fine not less than fifty nor more than two hundred dollars; for subsequent offence not less than two nor more than five hundred dollars, which fine may be recovered by an action of debt for the use of any person who shall sue therefor, or by an indictment.

Persons not complying with the law cannot collect fees.

Dentists, midwives (females), and five year practitioners in one locality, exempt. (*Acts of 1876.*)

#### AMENDMENTS.

Non-residents and non-graduates must obtain certificate from board of censors, and record the same.

Not to apply to females in the town or society in which they reside, nor to those practitioners who have resided and practiced medicine in this State five years. Approved November 27, 1878. (*General Assembly Laws, Vermont.*)

#### VIRGINIA.

The code of 1773 requires every surgeon, physician and dentist to take out a license, which authorizes the holder to practice anywhere in the State. Neglect to procure a license punishable by a fine of not less than thirty nor more than one hundred dollars. Nor can such practitioner collect compensations for services.

Physicians must keep a record of deaths, a copy of which

to be given annually, when called for, to the commissioner of revenue. (*Code of 1773.*)

#### WEST VIRGINIA.

Medical legislation in this State is rather complicated. Of three statutes, one establishes a Board of Health and regulates the practice of medicine and surgery; another regulates the practice of pharmacy, and the third regulates the practice of dentistry.

Board of Health appointed by the governor consists of six physicians, two from each Congressional district. These must be graduates of respectable medical colleges, of twelve years continuous practice, and must have distinguished themselves by devotion to the study of medicine and kindred sciences. No provision is made for a tie in the Board, nor does the statute provide from what school or schools the Board shall be selected. This will depend entirely upon the predilections of the Executive. It is further provided that this Board shall elect one of its members president, and one secretary, this last officer being declared the executive officer of the Board, it being his duty to correspond with and assist local boards of health, and make yearly reports to the Governor of matters pertaining to the Board of Health.

The Board is to take cognizance of the interests of the life and health of the people of the State; investigate causes of endemic and epidemic diseases and prevention of same (human and animal) and attend to a vast number of kindred subjects. Local boards are to be appointed in the several counties.

Practitioner, if a graduate, shall present diploma to members belonging to his congressional district for inspection as to its genuineness. If genuine, is to receive a certificate from State Board. If not a graduate, examined by said members, assisted by local county board, and if satisfactory, a certificate. Ten years' practitioners, on filing affidavit to that effect, ex-



empt. Certificates to be recorded by Secretary of State Board.  
**Fee for certificate, ten dollars.**

Examinations in anatomy, physiology, pathological anatomy, surgery, chemistry, materia medica, pathology and obstetrics to be elementary and of practical character. Females practicing midwifery exempt.

*Itinerants* to pay into State Treasury a special tax of \$50 per month.

Penalty for violation of any of above, fine not less than \$50 nor more than \$500, or imprisonment in county jail not less than one month nor more than twelve.

Attempts to file false diplomas, punishment as for forgery.

All funds received by State Board to be paid into State Treasury.

For salary of Secretary of State Board, and contingent expenses of officers of the Board of every kind and nature whatsoever, \$1,000 appropriated from fines, examinations, etc., and if insufficient, the deficit is to be made up by an appropriation from State Treasury. (Dr. Sharp, *Medical Record*, March 26, 1881.)

#### WISCONSIN.

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SECTION 1436. No person practicing physic or surgery, or both, shall have the right to collect in any action in any court, fees or compensation for the performance of any medical or surgical service, or to testify in a professional capacity as a physician or surgeon in any case, unless he shall have received a diploma from some incorporated medical society or college, or shall be a member of the State or some county medical society legally organized in this State.

[Published April 7, 1881.]

#### CHAPTER CCLVI.

An Act to prevent quacks from deceiving the people by assuming a professional title.

SEC. 1. No person practicing physic or surgery, or both, who is prohibited by section one thousand four hundred and thirty-six of the revised statutes of Wisconsin, 1878, from testifying in a professional capacity, as

a physician or surgeon, in any case shall assume the title of doctor, physician or surgeon, by means of any abbreviation, or by the use of any word or words, letters of the alphabet, of the English, or any other language, or any device of whatsoever kind, printed, written or painted, or exhibited in any advertisement, circular, handbill, letter or other instrument, nor on any card, sign, door or place whatsoever. Any person violating any provision of this act, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or by imprisonment in the county jail not less than ten days nor more than sixty days for each offense.

SEC. 2. Upon complaint made in writing, under oath, before any magistrate or justice of the peace, charging the commission of an offense against the provisions of this Act in his county, it shall be the duty of the district attorney to prosecute the offender, and in all such prosecutions the burden of proof shall be upon the defendant, to establish his right to use such title, under the provisions of this Act.

SEC. 3. Any person prohibited by section one of this Act from assuming the title of doctor, physician or surgeon, who shall practice or pretend to practice physic or surgery, or both, shall not be exempted from any, but shall be liable to all of the legal penalties and liabilities for malpractice; and ignorance shall be no excuse for failing to perform, or for negligently, or unskilfully performing or attempting to perform any of the duties required by law, of practicing physicians or surgeons.

SEC. 4. Every person pretending to practice physic or surgery, or both, shall, upon demand of any person, exhibit all diplomas or licenses that he may have to practice physic or surgery, or both, and if such person, upon demand, shall refuse to exhibit such diploma or license, any suit instigated against him under this chapter shall not be construed malicious.

SEC. 5. This Act shall take effect from and after its passage and publication.

Approved March 30, 1881. (*Hon. Secretary of State, April, 1881.*)





